IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Bail Appl..No. 4131 of 2007()

CRIME NO. 324/07 OF OLLUR POLICE STATION

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APPLICANTS/ACCUSED NOS 1 TO 4

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1. GIRISH M.R., AGED 30 YEARS,
S/O.RAVEENDRA DASAN, MANAKKATTUMPADI,
KIZHAKKEKOTTA P.O., NADATHARA VILLAGE,
KACHERI.

2. BIJOY, AGED 28 YEARS, S/O.VINCENT,
CHITTILAPPILLI HOUSE,
KIZHAKKEKKOTTA P.O., NADATHARA.

3. LINTO @ LINTAPPAN, AGED 24 YEARS,
S/O.ANTU, THAIKKATTIL HOUSE, P.O.KIZHAKKEKOTTA,
NADATHARA.

4. SHAJU @ ITTISHAJU, AGED 29 YEARS,
S/O.THOMAS, NEELANKAVIL HOUSE,
P.O.KIZHAKKEKOTTA, NADATHARA.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4131 of 2007

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Dated this the 9th day of July, 2007

O R D E R

The petitioners face allegations, inter alia, under Section 458 I.P.C. They had allegedly, in further of their common intention, trespassed into the house of the victim at about 9.45 p.m. on 16.5.07 and indulged in wanton acts of violence. This was allegedly done by them for the enforcement of the claim for money due from the alleged victim. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Only because of prior animosity such false allegations are raised against the petitioners, it is submitted.

3. The learned Prosecutor opposes the application. There are no circumstances justifying the invocation of the discretion under Section 438 Cr.P.C., submits the learned Prosecutor.

4. I find merit in the opposition by the learned Prosecutor. In these circumstances, I am satisfied that this is a fit case where the

petitioners must resort to the ordinary and regular procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously.

4. This application is accordingly dismissed. Needless to say, if the petitioners surrender before the Investigating Officer or the learned Magistrate having jurisdiction and apply for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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